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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/033,832 | 03/03/1998 | WALTER W. MOSHER JR. | PREDYN-42891 | 2572 |

7590 03/09/2004

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| EXAMINER |
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GREEN, BRIAN

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| ART UNIT | PAPER NUMBER |
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3611

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/033,832

Applicant(s)

MOSHER ET AL.

Examiner

Brian K. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30,32-38,40,41,43 and 44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 41,43 and 44 is/are allowed.
- 6) ☒ Claim(s) 30,32 and 34-38 is/are rejected.
- 7) ☒ Claim(s) 33,40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Drawings

The proposed drawing correction filed on Jan. 8, 2004 has not been approved since the specification fails to provide adequate support for placing the mark as proposed in figure 3, i.e. there is no support for placing the mark on the edge of the strap as proposed in figure 3.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the mark defined in claims 36 and 43 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

Claims 35-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 35, line 2, "a pair of fastening openings" is indefinite since it is not clear whether the pair of fastening openings includes the opening defined in claim 30.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30,32,34,35, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Jong (U.S. Patent No. 4,612,719) in view of Hayes (U.S. Patent No. 4,718,374).

de Jong shows in figures 1-3 a disposable attachment means (6), a reusable securement means (3,4,7,8), a detection unit (2) embedded within the securement means, and each of the extremities of the attachment means pass through at least one opening (see figures 1 and 3) and the securement means includes a fastening element (10) engageable with the fastening opening. de Jong shows in figure 9 that the strap includes openings (the opening formed by the loop which receives members 90) in each end of the strap and includes fastening elements (90,90) received within the openings.. de Jong discloses in column 2, lines 55-57 the idea of embedding the detection unit. De Jong does not disclose the idea of making the detection unit in the form of a radio frequency identification circuit. Hayes shows in figures 1-5 a securement means comprising a body (22) having a radio frequency identification circuit device (60) embedded therein. In view of the teachings of Hayes it would have been obvious to one in the art to modify de Jong by replacing the detection unit with a radio frequency identification device since this would allow information from the responder to be sent out and received in an easier and faster manner. In regard to claim 34, the fastening element 10 or 90 is considered to be a boss.

Claims 30,32,34,35, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al. (U.S. Patent No. 4,598,275) in view of de Jong (U.S. Patent No. 4,612,719).

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Ross et al. shows in figures 1-6 a disposable strap (24), a reusable securement means (26), and a radio frequency identification device (20) embedded within the strap. Ross et al. does not disclose the idea of placing the RFID device (20) on the securement means. De Jong shows in figures 1-9 the idea of embedding a detection device (2) within a securing device. In view of the teachings of de Jong it would have been obvious to one in the art to modify Ross et al. by replacing the securement means with the type taught by de Jong and embedding the RFID circuit within the de Jong securement means since this would help to protect the circuit in a better manner and would allow the circuit to be reused. In regard to claim 34, the fastening element 10 or 90 of de Jong is considered to be a boss. In regard to claims 35, de Jong shows in figure 9 that the strap includes openings (the opening formed by the loop which receives members 90) in each end of the strap. The loops are considered to form an elongated tubular band.

Claims 30,32,34,35, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen (U.S. Patent No. 5,479,797) in view of Hayes (U.S. Patent No. 4,718,374) and de Jong (U.S. Patent No. 4,612,719).

Petersen shows in figures 1-6 a disposable attachment means (20) and a reusable securement means (10). The extremities of the attachment means pass through openings in the securement means and overlap, see figures 4 and 5. Petersen shows in figures 2 and 3 that one end of the strap includes an opening (26) for receiving a mounting boss (32) therein. Petersen does not disclose attaching a radio frequency identification device to the securing means. Hayes shows in figures 1-5 a securement means comprising a body (22) having a radio frequency identification

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circuit device (60) embedded therein. De Jong shows in figure 1 the idea of embedding a detection device (2) within a securing device. In view of the teachings of Hayes and de Jong it would have been obvious to one in the art to modify Petersen by embedding an RFID within the securing means since this would allow information to be stored on the band, the information changed as desired, and the information transmitted to a distant location in an easier and faster manner. In regard to claim 35, de Jong shows in figure 9 that the strap includes openings (the opening formed by the loop which receives members 90) in each end of the strap. In view of the teachings of de Jong it would have been obvious to one in the art to modify Petersen by using the strap and securement means taught by de Jong in figure 9 since this would create a safer band, i.e. when the band is subjected to a force above a determined level, the strap is released, see column 2, lines 18-25.

Claims 30,35, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacDonald (U.S. Patent No. 5,323,554) in view of Ross et al. (U.S. Patent No. 4,598,275) and de Jong (U.S. Patent No. 4,612,719).

MacDonald shows in figures 6-10 a disposable tubular band (14) and a reusable securement means (40). The opposite ends of the strap (14) have openings which receive the opposite ends of the securement means (40). MacDonald does not disclose embedding a radio frequency identification device within the securing means. Ross et al. shows in figures 1-2 a strap having an identification circuit device (20) embedded therein. De Jong shows in figure 1 the idea of embedding a detection device (2) within a securing device. In view of the teachings of Ross et

al. and de Jong it would have been obvious to one in the art to modify MacDonald by embedding an RFID within the securing means since this would allow information to be stored on the band, the information changed as desired, and the information transmitted to a distant location in an easier and faster manner.

Response to Arguments

Applicant's arguments filed January 8, 2004 have been fully considered but they are not persuasive.

The applicant argues that the addition of the mark shown in proposed figure 3 is not new matter since the specification provides adequate support. The examiner disagrees since the specification fails to provide support for placing the mark on the end edge of the strap as proposed in figure 3.

The applicant argues that the strap of de Jong does not have a "fastening opening" formed therein. The examiner disagrees since de Jong shows in figures 3 and 9 that the strap includes one opening (the opening which received member 10) in figure 3 and a pair of openings in figure 9 (the openings which receive members (90,90)). The elements 10 and 90,90 are removable from the opening/openings formed at the ends of the strap.

The applicant argues that de Jong does not have first and second opposite extremities each having a size and shape for interference fit reception respectively into the openings as defined in claim 35 and 41. The examiner disagrees since de Jong shows in figure 9 that the reception of elements 90,90 within the openings can be considered an "interference fit".

The applicant argues that de Jong fails to teach an interference fit and an antenna as defined in claims 35 and 41. The applicant fails to define an antenna in claim 35.

The applicant argues that Hayes reference does not disclose or suggest a strap of any kind. The examiner disagrees since the Hayes patent is merely being used to show that it is known to use a RFID circuit within an electronic tag and this would provide the advantage of allowing information to be sent out and received in an easier manner.

The applicant argues that the examiner is using improper hindsight in combining Ross in view of de Jong. The examiner disagrees since the replacement of the buckle of Ross with the securing means of de Jong would provide the advantage of allowing the RFID circuit to be embedded therein and allow the RFID circuit and securing means to be reused as taught to be desirable by de Jong, column 2, lines 23-29.

The applicant argues that Peterson fails to disclose the idea of subsequent re-assembly of the securement means 10 with the same or a different strap. The securement means of Peterson can be removed from the strap by cutting the strap and de Jong discloses the advantage of removing the securing means and using it with another strap, see de Jong, column 2, lines 23-29.

Allowable Subject Matter

Claims 41,43, and 44 are allowed.

Claims 33 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 36 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (703) 308-1011. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BRIAN K. GREEN
PRIMARY EXAMINER

Bkg
March 4, 2004